

## General Assembly

Raised Bill No. 937

January Session, 2011

LCO No. 2952

\*02952\_\_\_\_LAB\*

Referred to Committee on Labor and Public Employees

Introduced by: (LAB)

## AN ACT CONCERNING THE RIGHT TO ORGANIZE FOR CERTAIN STATE EMPLOYEES AND GRADUATE ASSISTANTS AT STATE UNIVERSITIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. Section 5-270 of the general statutes is repealed and the
- 2 following is substituted in lieu thereof (*Effective from passage*):
- When used in sections 5-270 to 5-280, inclusive, as amended by this
- 4 act:
- 5 (1) "Bureau heads" means individuals who head a major division of
- 6 a state agency and report to the head or deputy head of such agency,
- 7 provided: (A) The number of bureau heads of any state agency shall
- 8 not exceed the greater of (i) one, or (ii) one-half of one per cent of the
- 9 total number of permanent full-time employees of the employer,
- 10 rounded to the next lowest whole number; (B) the number of bureau
- 11 heads in the state executive branch shall not exceed one-half of one per
- 12 cent of the total number of permanent full-time employees in the
- 13 branch, rounded to the next lowest whole number, and the number of
- bureau heads in the state judicial branch shall not exceed one-half of

one per cent of the total number of permanent full-time employees in the branch, rounded to the next lowest whole number; and (C) if a state agency has more major divisions than the number of bureau heads permitted to an employer by this subdivision, the major divisions shall be ranked by the number of permanent full-time employees in each, and any individual heading a major division with a smaller number of permanent full-time employees shall be excluded from being classified as a bureau head before any individual heading a major division with a larger number of full-time employees.

[(a)] (2) "Employer" means the state of Connecticut, its executive, legislative and judicial branches, including, without limitation, any board, department, commission, institution, or agency of such branches or any appropriate unit thereof and any board of trustees of a state-owned or supported college or university and branches thereof, public and quasi-public state corporation, or authority established by state law, or any person or persons designated by the employer to act in its interest in dealing with employees, but shall not include the State Board of Labor Relations or the State Board of Mediation and Arbitration.

[(b)] (3) "Employee" means any employee of an employer, whether or not in the classified service of the employer, [except] including any graduate student enrolled at The University of Connecticut or at a state university in the Connecticut State University system who (A) conducts research or training, has administrative responsibilities or conducts academic support projects or programs, except regular preparation of instructional materials for courses, manual work, or clerical assignments, under the supervision of a member of the faculty or academic staff of the university at which the graduate student is enrolled, or (B) is assigned teaching and related responsibilities, other than manual work or clerical responsibilities, under the supervision of a member of the faculty of the university at which the graduate student is enrolled. "Employee" does not include elected or appointed officials other than special deputy sheriffs, board and commission

- 48 members, disability policy specialists assigned to the Council on 49 Developmental Disabilities, [managerial employees] bureau heads, 50 employees of the Office of State Capitol Police at or above the rank of
- 51 lieutenant and confidential employees.
- 52 [(c)] (4) "Professional employee" means: [(1)] (A) Any employee 53 engaged in work [(A)] (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or 54 55 physical work; [(B)] (ii) involving the consistent exercise of discretion and judgment in its performance; [(C)] (iii) of such a character that the 56 57 output produced or the result accomplished cannot be standardized in 58 relation to a given time period; [(D)] (iv) requiring knowledge of an 59 advanced type in a field of science or learning customarily acquired by 60 a prolonged course of specialized intellectual instruction and study in 61 an institution of higher learning or a hospital, as distinguished from a 62 general academic education or from an apprenticeship or from training 63 in the performance of routine mental, manual or physical processes; or 64 [(2)] (B) any employee who has completed the courses of specialized 65 intellectual instruction and study described in [subsection (c)(1)(D)] 66 subparagraph (A)(iv) of this subdivision and is performing related 67 work under the supervision of a professional person to qualify himself 68 or herself to become a professional employee as defined in [subsection 69 (c)(1)] subparagraph (A) of this subdivision.
- 70 [(d)] (5) "Employee organization" means any lawful association, 71 labor organization, federation or council having as a primary purpose 72 the improvement of wages, hours and other conditions of employment 73 among state employees.
- 74 [(e)] (6) "Confidential employee" means any public employee who 75 would have access to confidential information used in collective 76 bargaining.
- 77 [(f)] (7) "Supervisory employee" means any individual in a position 78 in which the principal functions are characterized by not fewer than 79 two of the following: [(1)] (A) Performing such management control

[(g)] (8) "Managerial employee" means any individual in a position in which the principal functions are characterized by not fewer than two of the following, provided for any position in any unit of the system of higher education, one of such two functions shall be as specified in [subdivision (4) of this subsection: (1)] subparagraph (D) of this subdivision: (A) Responsibility for direction of a subunit or facility of a major division of an agency or assignment to an agency head's staff; [(2)] (B) development, implementation and evaluation of goals and objectives consistent with agency mission and policy; [(3)] (C) participation in the formulation of agency policy; or [(4)] (D) a major role in the administration of collective bargaining agreements or major personnel decisions, or both, including staffing, hiring, firing, evaluation, promotion and training of employees. Such individuals shall be employees within the meaning of subdivision (3) of this section.

Sec. 2. Subsection (a) of section 5-278 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

- 112 (a) When an employee organization has been designated, in 113 accordance with the provisions of sections 5-270 to 5-280, inclusive, as 114 amended by this act, as the exclusive representative of employees in an 115 appropriate unit, the employer shall be represented in collective 116 bargaining with such employee organization in the following manner: 117 (1) In the case of an executive branch employer, including the Division 118 of Criminal Justice, by the chief executive officer whether elected or 119 appointed, or his or her designated representative, [;] who shall 120 maintain a close liaison with the legislature relative to the negotiations 121 and the potential fiscal ramifications of any proposed settlement; (2) in the case of a judicial branch employer, by the Chief Court 122 123 Administrator, or his or her designated representative; [and] (3) in the 124 case of each segment of the system of higher education, the faculty and 125 professional employees shall negotiate with their own board of 126 trustees or its designated representative; and (4) in the case of the 127 legislative branch, the executive director of the Joint Committee on 128 Legislative Management, or his or her designated representative.
- Sec. 3. Subdivision (30) of section 5-196 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- 132 (30) "Managerial employee" means any person presently covered by 133 the existing managerial compensation plan pursuant to [subsection (g)] 134 subdivision (8) of section 5-270, as amended by this act.
- Sec. 4. Subsection (b) of section 5-200c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):
- (b) Upon the completion of the studies referred to in subdivisions
  (2) and (3) of subsection (a) of this section and the implementation of
  the results of such studies, collective bargaining negotiations
  concerning wage changes as a result of objective job evaluations shall
  commence not later than April 1, 1993. Notwithstanding the provisions
  of subsection (a) of section 5-278, as amended by this act, such

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- 144 negotiations shall be conducted between the employer, as defined in 145 [subsection (a)] subdivision (2) of section 5-270, as amended by this act, 146 and a coalition committee which represents all state employees who 147 are members of any designated employee organization. The results of 148 any such negotiations shall be implemented as of July 1, 1995. All wage 149 inequities shall be deemed to have been eliminated upon the 150 implementation of such results. Nothing in this subsection shall be 151 deemed to affect any appeal related to any objective job evaluation 152 studies previously taken or allowed or any litigation pending on June 153 25, 1991, or to prohibit the continued use of a point factor value system 154 for the evaluation of newly created job classifications.
- 155 Sec. 5. Section 5-226f of the general statutes is repealed and the 156 following is substituted in lieu thereof (*Effective from passage*):
- 157 Notwithstanding the provisions of subsection (d) of section 5-272 158 the employer, as defined in [subsection (a)] subdivision (2) of section 5-159 270, as amended by this act, and an employee organization, as defined 160 in [subsection (d)] subdivision (5) of [said] section 5-270, as amended 161 by this act, as the exclusive representative of employees in an 162 appropriate unit, may engage in a pilot program to discuss the state 163 classifications and examination system. Neither party may negotiate 164 pursuant to the provisions of section 5-276a, as amended by this act. 165 Any agreement reached by the parties shall be reduced to writing and 166 submitted to the General Assembly pursuant to the provisions of 167 subsection (b) of section 5-278.
- 168 Sec. 6. Subsection (a) of section 5-248i of the general statutes is 169 repealed and the following is substituted in lieu thereof (Effective from 170 passage):
- 171 (a) The Commissioner of Administrative Services shall, within 172 available appropriations, develop and implement guidelines, in cooperation with interested employee organizations, as defined in 173 174 [subsection (d)] subdivision (5) of section 5-270, as amended by this 175 act, authorizing telecommuting and work-at-home programs for state

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- 176 employees. Such guidelines shall be designed to achieve the following 177 goals: (1) Increase worker efficiency and productivity; (2) benefit the 178 environment; and (3) reduce traffic congestion. The guidelines of the 179 telecommuting or work-at-home program and determination of 180 whether an employment position is appropriate for such program shall 181 not be subject to collective bargaining under the provisions of chapter 182 68.
- 183 Sec. 7. Subsection (a) of section 5-276a of the general statutes is 184 repealed and the following is substituted in lieu thereof (Effective from 185 passage):
  - (a) In the event that either the employer, as defined in [subsection (a)] subdivision (2) of section 5-270, as amended by this act, or a designated employee organization, as defined in [subsection (d)] subdivision (5) of [said] section 5-270, as amended by this act, may desire negotiations with respect to an original or successor collective bargaining agreement, such party, not more than three hundred thirty days prior to the expiration of the existing collective bargaining agreement or less than one hundred fifty days prior thereto, shall serve written notice thereof upon the other party. Negotiations shall commence within thirty days of such service. Negotiations as to wage reopeners shall commence within twenty days of receipt by one party of a written notice with respect thereto, served in accordance with the provisions of any such reopener in the affected contract or, if none is stated therein, not more than sixty days or less than thirty days prior to the effective date of such reopener.
- 201 Sec. 8. Subdivision (7) of section 9-601 of the general statutes is 202 repealed and the following is substituted in lieu thereof (Effective from 203 passage):
- 204 (7) "Organization" means all labor organizations, (A) as defined in 205 the Labor-Management Reporting and Disclosure Act of 1959, as from 206 time to time amended, or (B) as defined in subdivision (9) of section 207 31-101, employee organizations as defined in [subsection (d)]

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208 subdivision (5) of section 5-270, as amended by this act, and 209 subdivision (6) bargaining of section 7-467, representative 210 organizations for teachers, any local, state or national organization, to 211 which a labor organization pays membership or per capita fees, based 212 upon its affiliation or membership, and trade or professional 213 associations which receive their funds exclusively from membership 214 dues, whether organized in or outside of this state, but does not mean 215 a candidate committee, party committee or a political committee.

Sec. 9. Section 32-23e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

To accomplish the purposes of the authority, as defined in subsection (t) of section 32-23d, which are hereby determined to be public purposes for which public funds may be expended, and in addition to any other powers provided by law, the authority shall have power to: (1) Determine the location and character of any project to be financed under the provisions of said chapters and sections, provided any financial assistance shall be approved in accordance with written procedures prepared pursuant to subdivision (14) of this section; (2) purchase, receive, by gift or otherwise, lease, exchange, or otherwise acquire, and construct, reconstruct, improve, maintain, equip and furnish one or more projects, including all real and personal property which the authority may deem necessary in connection therewith, and to enter into a contract with a person therefor upon such terms and conditions as the authority shall determine to be reasonable, including but not limited to reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of the project and any claims arising therefrom and establishment and maintenance of reserve and insurance funds with respect to the financing of the project; (3) insure any or all payments to be made by the borrower under the terms of any agreement for the extension of credit or making of a loan by the authority in connection with any economic development project to be financed, wholly or in part, through the issuance of bonds or mortgage

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payments of any mortgage which is given by a mortgagor to the mortgagee who has provided the mortgage for an economic development project upon such terms and conditions as the authority may prescribe and as provided herein, and the faith and credit of the state are pledged thereto; (4) in connection with the insuring of payments of any mortgage, request for its guidance a finding of the municipal planning commission, or, if there is no planning commission, a finding of the municipal officers, of the municipality in which the economic development project is proposed to be located, or of the regional planning agency of which such municipality is a member, as to the expediency and advisability of the economic development project; (5) sell or lease to any person, all or any portion of a project, purchase from eligible financial institutions mortgages with respect to economic development projects, purchase or repurchase its own bonds, and sell, pledge or assign to any person any such bonds, mortgages, or other loans, notes, revenues or assets of the authority, or any interest therein, for such consideration and upon such terms as the authority may determine to be reasonable; (6) mortgage or otherwise encumber all or any portion of a project whenever it shall find such action to be in furtherance of the purposes of said chapters and sections; (7) enter into agreements with any person, including prospective mortgagees and mortgagors, for the purpose of planning, designing, constructing, acquiring, altering and financing projects, providing liquidity or a secondary market for mortgages or other financial obligations incurred with respect to facilities which would qualify as a project under this chapter, purchasing loans made by regional corporations under section 32-276, or for any other purpose in furtherance of any other power of the authority; (8) grant options to purchase or renew a lease for any of its projects on such terms as the authority may determine to be reasonable; (9) employ or retain attorneys, accountants and architectural, engineering and financial consultants and such other employees and agents and to fix their compensation and to employ the Connecticut Development Credit Corporation on a cost basis as it shall

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deem necessary to assist it in carrying out the purposes of said authority legislation; (10) borrow money or accept gifts, grants or loans of funds, property or service from any source, public or private, and comply, subject to the provisions of said authority legislation, with the terms and conditions thereof; (11) accept from a federal agency loans, grants or loan guarantees or otherwise participate in any loan, grant, loan guarantee or other financing or economic or project development program of a federal agency in furtherance of, and consistent with, the purposes of the authority, and enter into agreements with such agency respecting any such loans, grants, loan guarantees or federal agency programs; (12) provide tenant lease guarantees and performance guarantees, invest in, extend credit or make loans to any person for the planning, designing, financing, acquiring, constructing, reconstructing, improving, expanding, continuing in operation, equipping and furnishing of a project and for the refinancing of existing indebtedness with respect to any facility or part thereof which would qualify as a project in order to facilitate substantial improvements thereto, which guarantees, investments, credits or loans may be secured by loan agreements, lease agreements, installment sale agreements, mortgages, contracts and all other instruments or fees and charges, upon such terms and conditions as the authority shall determine to be reasonable in connection with such loans, including provision for the establishment and maintenance of reserve and insurance funds and in the exercise of powers granted in this section in connection with a project for such person, to require the inclusion in any contract, loan agreement or other instrument, such provisions for the construction, use, operation and maintenance and financing of a project as the authority may deem necessary or desirable; (13) in connection with any application for assistance under said authority legislation, or commitments therefor, to make and collect such fees and charges as the authority shall determine to be reasonable; (14) adopt procedures, in accordance with the provisions of section 1-121, to carry out the provisions of said authority legislation, which may give priority to applications for financial assistance based upon the extent the project

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will materially contribute to the economic base of the state by creating or retaining jobs, providing increased wages or benefits to employees, promoting the export of products or services beyond the boundaries of the state, encouraging innovation in products or services, encouraging defense-dependent business to diversify to nondefense production, promoting standards of participation adopted by the Connecticut partnership compact pursuant to section 33-374g of the general statutes, revision of 1958, revised to 1991, or will otherwise enhance existing activities that are important to the economic base of the state, provided regulation-making proceedings commenced before January 1, 1989, shall be governed by sections 4-166 to 4-174, inclusive; (15) adopt an official seal and alter the same at pleasure; (16) maintain an office at such place or places within the state as it may designate; (17) sue and be sued in its own name and plead and be impleaded, service of process in any action to be made by service upon the executive director of said authority either in hand or by leaving a copy of the process at the office of the authority with some person having charge thereof; (18) employ such assistants, agents and other employees as may be necessary or desirable for its purposes, which employees shall be exempt from the classified service and shall not be employees, as defined in [subsection (b)] subdivision (3) of section 5-270, as amended by this act; establish all necessary or appropriate personnel practices and policies, including those relating to hiring, promotion, compensation, retirement and collective bargaining, which need not be in accordance with chapter 68 and the authority shall not be an employer, as defined in [subsection (a)] subdivision (2) of section 5-270, as amended by this act; contract for and engage appraisers of industrial machinery and equipment, consultants and property management services, and utilize the services of other governmental agencies; (19) when it becomes necessary or feasible for the authority to safeguard itself from losses, acquire, purchase, manage and operate, hold and dispose of real and personal property, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the

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performance of its duties; (20) in order to further the purposes of said authority legislation, or to assure the payment of the principal and interest on bonds or notes of the authority or to safeguard the mortgage insurance fund, purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness, purchase, acquire, attach, seize, accept or take title to any project by conveyance or, by foreclosure, and sell, lease or rent any project for a use specified in said chapters and sections or in this chapter; (21) adopt rules for the conduct of its business; (22) invest any funds not needed for immediate use or disbursement, including any funds held in reserve, in obligations issued or guaranteed by the United States of America or the state of Connecticut and in other obligations which are legal investments for savings banks in this state; (23) do, or delegate, any and all things necessary or convenient to carry out the purposes and to exercise the powers given and granted in said authority legislation; provided, in all matters concerning the internal administrative functions of the authority which are funded by amounts appropriated by the state to the authority or to the department, the procedures of the state relating to office space, supplies, facilities, materials, equipment and professional services shall be followed, and provided further, that in the acquisition by the authority of real estate involving the use of appropriated funds or bonds supported by the full faith and credit of the state, the authority shall be subject to the provisions of section 4b-23; (24) to accept from the department: (A) Financial assistance, (B) revenues or the right to receive revenues with respect to any program under the supervision of the department, and (C) loan assets or equity interests in connection with any program under the supervision of the department; to make advances to and reimburse the department for any expenses incurred or to be incurred by it in the delivery of such assistance, revenues, rights, assets or amounts; to enter into agreements for the delivery of services by the authority, in consultation with the department, the Connecticut Housing Finance Authority and Connecticut Innovations, Incorporated, to third parties which agreements may include

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Sec. 10. Subdivision (7) of section 32-39 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(7) To employ such assistants, agents and other employees as may be necessary or desirable, which employees shall be exempt from the classified service and shall not be employees, as defined in [subsection (b)] <u>subdivision (3)</u> of section 5-270, as amended by this act; establish all necessary or appropriate personnel practices and policies, including those relating to hiring, promotion, compensation, retirement and collective bargaining, which need not be in accordance with chapter 68, and the corporation shall not be an employer as defined in [subsection (a)] <u>subdivision (2)</u> of section 5-270, as amended by this act; and engage consultants, attorneys and appraisers as may be necessary or desirable to carry out its purposes in accordance with this chapter.

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Sec. 11. Subsection (b) of section 32-602 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) For [these] purposes of subsection (a) of this section, the authority shall have the following powers: (1) To have perpetual succession as a body corporate and to adopt procedures for the regulation of its affairs and the conduct of its business as provided in subsection (f) of section 32-601, to adopt a corporate seal and alter the same at its pleasure, and to maintain an office at such place or places within the city of Hartford as it may designate; (2) to sue and be sued, to contract and be contracted with; (3) to employ such assistants, agents and other employees as may be necessary or desirable to carry out its purposes, which employees shall be exempt from the classified service and shall not be employees, as defined in [subsection (b)] subdivision (3) of section 5-270, as amended by this act, to fix their compensation, to establish and modify personnel procedures as may be necessary from time to time and to negotiate and enter into collective bargaining agreements with labor unions; (4) to acquire, lease, hold and dispose of personal property for the purposes set forth in this section; [32-602;] (5) to procure insurance against any liability or loss in connection with its property and other assets, in such amounts and from such insurers as it deems desirable and to procure insurance for employees; (6) to invest any funds not needed for immediate use or disbursement in obligations issued or guaranteed by the United States of America or the state of Connecticut, including the Short Term Investment Fund, and the Tax-Exempt Proceeds Fund, and in other obligations which are legal investments for savings banks in this state and in time deposits or certificates of deposit or other similar banking arrangements secured in such manner as the authority determines; and (7) to do all acts and things necessary or convenient to carry out the purposes of and the powers expressly granted by this section.

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This act shall take effect as follows and shall amend the following sections:		
Section 1	from passage	5-270
Sec. 2	from passage	5-278(a)
Sec. 3	from passage	5-196(30)
Sec. 4	from passage	5-200c(b)
Sec. 5	from passage	5-226f
Sec. 6	from passage	5-248i(a)
Sec. 7	from passage	5-276a(a)
Sec. 8	from passage	9-601(7)
Sec. 9	from passage	32-23e
Sec. 10	from passage	32-39(7)
Sec. 11	from passage	32-602(b)

## Statement of Purpose:

To allow employees of the legislative branch, state managers, and certain graduate assistants to collectively bargain.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]